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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/718,734	11/22/2000	George M. Brookner	770P009595-US(PAR)	2840
2512	7590	08/16/2005	EXAMINER	
PERMAN & GREEN 425 POST ROAD FAIRFIELD, CT 06824			LEMMMA, SAMSON B	
			ART UNIT	PAPER NUMBER
			2132	

DATE MAILED: 08/16/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

**Advisory Action
Before the Filing of an Appeal Brief**

Application No.

09/718,734

Applicant(s)

BROOKNER ET AL.

Examiner

Samson B. Lemma

Art Unit

2132

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 02 August 2005 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☐ The period for reply expires _____ months from the mailing date of the final rejection.
b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.
Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
(a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
(b) ☐ They raise the issue of new matter (see NOTE below);
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☒ For purposes of appeal, ~~the proposed amendment(s): a) ☐ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.~~

The status of the claim(s) is (or will be) as follows:

Claim(s) allowed: _____.

Claim(s) objected to: _____.

Claim(s) rejected: 1-20 and 22-26.

Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing of a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:
See Continuation Sheet.
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08 or PTO-1449) Paper No(s). _____
13. ☐ Other: _____.


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Continuation of 11. does NOT place the application in condition for allowance because: Applicant's remark/arguments filed on August 02, 2005 have been fully considered but they are not persuasive. Claims 21, 27-30 are cancelled and Claims 1-20 and 22-26 are pending in the application.

Applicant first argument is refereeing to the prior art used in rejection namely the combination of Kuhn and Matyas. Applicant argued that the combination does not disclose generating a number of random binary bits. Applicant further argued that there is nothing in the Kuhn's process will yield the same result each time it is performed. As long as the same five digits of the bank routing number, the Same ten digit account, number, and same the single digit card sequence number are concatenated, Kuhn's process yields the exact same result and thus does not produce a number of random binary bits. Furthermore, contrary to the Examiner's assertion, there is nothing in the DES algorithm that ensures that each successive

bit in an encryption result is equally likely and unpredictable or random. While this is a desired characteristic it is not necessarily a product of the DES algorithm. For example, if the plaintext message "8787878787878787" is encrypted with the DES key "0E329232EA6D9D734", the result is the ciphertext "00000000000000" (from "The DES Algorithm Illustrated" by J. Orlin Grabbe, copy attached) Thus, Kuhn's process does not generate a number of random binary bits.

Examiner disagrees with this argument.

Examiner would point out that Kuhn discloses the method wherein the number of bits is sixty four (64-bit pattern) or which is equivalent to the 16-digit decimal number.(page 1,lines 12-15; figure on the last page).Kuhn discloses that the 64 bits pattern or its equivalent 16-digit decimal number is formed by concatenating five digits of the bank routing number, ten digit account number which is the unique number for each customer and this is not the same ten digit account number as it was assumed by the applicant, it is a different number for each customer, and a single digit card sequence number and after that the result was encoded (encrypted) using the DES algorithm with the secret 56-bit institute key k1.(page1, lines 12-17; figure on the last page).This will make each successive digit or bits to be equally likely and unpredictable to meet the recitation of Random. If DES Algorithm produces a predictable ciphertext then it would not have been used as reliable encryption algorithm, however the fact is the ciphertext is unpredictable because the outcome of the encryption is equally likely and unpredictable or random. One single ciphertext given as an example by the applicant does not represent the general/overall outcome of the DES Algorithm. It is not only true that each bits are equally likely or at least unpredictable but also true that they are used in calculation creating a pin which has to be unique for each customers.

Applicant second argument is refereeing to the limitation in claim 1 and 13. Applicant argued that there is nothing in the combination of Kuhn and Matyas related to determining the least significant bits of the number of bits. Applicant argued that the examining 4 specific digits, of a hexadecimal number is different from determining the least significant bits of number of bits because the specified digits do not necessary include all of those in a least significant position and hexadecimal number by definition is not a binary format.

Examiner disagrees with this argument.

Examiner points out that Kuhn discloses determining /selecting any 4 arbitrary hexadecimal digits out of the 16 hexadecimal digit (take 3-6 hexadecimal digits) meets the limitation of determining the least significant bits because taking 3-6 digits or its equivalent 4 hexadecimal digit or its equivalent 16 bits out of the 16 hexadecimal digit or its equivalent 64 bits is an arbitrary design choice. Selection the right most, or the middle or the left most bits is arbitrary design choice. Therefore what is described by Kuhn meets the recitation of sixteen least significant bits.(page 1, lines 17, page 4; figure on the last page). In response to the argument that hexadecimal number by definition is not a binary format Examiner would point that the fact that hexadecimal format is not written in the binary format does not patentably distinguishes the limitation from what is disclosed by Kuhn. In fact converting hexadecimal to its equivalent binary format or vice-versa is known to a person skilled in the art.

Applicant third argument is refereeing to the limitation in claim 1 and 13. Applicant argued that Kuhn does not disclose or suggest converting the least significant bits to a decimal integer.

Examiner disagrees with this argument

Examiner would point out that Kuhn discloses, Converting the hexadecimal digit (3-6) in to a decimal integer using a decimalization mapping (Figure on the last page)(this meets the limitation of converting the least significant bits to a decimal integer). As it is already discussed above it has been shown why the least significant bits is equivalent to what is disclosed by the prior art. Therefore by the same analogy, this particular limitation is also disclosed by Kuhn.

Applicant's fourth argument is regarding the claims 2-12 and 14-20 and 22-26.

Applicants argued that the since the independent claims 13 which recites all the limitation of claim 1 are patentable therefore claim 13 and all the claims dependent thereon are also in condition for allowance for the same reasons argued for the independent claims 1. In response to the above argument by the applicant, the examiner response discussed to the independent claims 1 mentioned above is also valid towards this argument.

Therefore all the elements of the claims limitation is explicitly or implicitly or inherently suggested and disclosed by the single or the combination of the references on the record and the final rejection remains valid unless and otherwise the applicant added a specific limitation in to the present independent claim 1 and 13, to overcome the rejection with out introducing a new matter.